

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

OLIVER WEDDINGTON,

Case No.: 21-10646

Plaintiff,

Bernard A. Friedman

v.

United States District Judge

CITY OF DETROIT, *et al.*,

Curtis Ivy, Jr.

United States Magistrate Judge

Defendants.

**ORDER GRANTING IN PART DEFENDANTS' MOTION TO COMPEL  
IME (ECF No. 35)**

Defendants moved to compel Plaintiff to submit to an independent medical examination (“IME”) of Plaintiff’s claimed physical injuries. (ECF No. 35). He alleges the Defendants caused injuries to his hand and elbow during an arrest. Plaintiff initially opposed the motion, arguing that Defendants noticed the orthopedic IME only five days before the close of discovery and gave only 21 hours’ notice of the IME, without seeking an extension of the discovery deadline. (ECF No. 39).

Later, the parties agreed that Plaintiff would submit to an IME, but disagreed on the language of a proposed order. Defendants’ proposed order concludes with a statement reserving their right to conduct an IME as to any other physical or

mental condition put in issue. Plaintiff opposes this reservation, and insists the IME should be limited only to the orthopedic IME Defendants initially sought.

The motion to compel the IME is **GRANTED**, limited to an orthopedic IME as originally requested by Defendants. Should other medical issues be placed into issue, Defendants may move to extend the discovery deadline to obtain another IME.

The Court orders the following:

**IT IS HEREBY ORDERED** that Plaintiff shall appear for an orthopedic Independent Medical Examination at a date and time mutually agreeable, but on or before December 30, 2022, with Dr. Donald Garver of Metropolitan Orthopedics Associates P.C. located at 16815 E. Jefferson Avenue, Ste. 150, Grosse Pointe, MI 48230.

**IT IS FURTHER ORDERED** that Plaintiff's counsel shall be allowed to take the discovery deposition of Dr. Donald Garver prior to his trial testimony here.

**IT IS FURTHER ORDERED** that Plaintiff shall be permitted to retain a medical expert in the area of orthopedics and will amend his Expert Disclosures 90 days after receiving the IME Report from Defendants.

**IT IS SO ORDERED.**

The parties here may object to and seek review of this Order, but are required to file any objections within 14 days of service as provided for in Federal

Rule of Civil Procedure 72(a) and Local Rule 72.1(d). A party may not assign as error any defect in this Order to which timely objection was not made. Fed. R. Civ. P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. When an objection is filed to a magistrate judge's ruling on a non-dispositive motion, the ruling remains in full force and effect unless and until it is stayed by the magistrate judge or a district judge. E.D. Mich. Local Rule 72.2. The district judge may sustain an objection only if the order is clearly erroneous or contrary to law. 28 U.S.C. § 636.

Date: December 5, 2022

s/Curtis Ivy, Jr.  
Curtis Ivy, Jr.  
United States Magistrate Judge